3.00 p.m.

MR. DEPUTY CHAIRMAN: The question is:—

"That the Bill further to amend the Code of Criminal Procedure (Amendment) Act, 2005, be taken into consideration."

The motion was adopted.

MR. DEPUTY CHAIRMAN: We shall now take up clause-by-clause consideration of the Bill.

Clause 2 was added to the Bill.

Clause 1, the Enacting formula and the Title were added to the Bill.

SHRI SHIVRAJ V. PATIL: Sir, I beg to move:

"That the Bill be passed."

The question was put and the motion was adopted.

MR. DEPUTY CHAIRMAN: Now we will take up the Assam Rifles Bill, 2006.

The Assam Rifles Bill, 2006

THE MINISTER OF HOME AFFAIRS (SHRI SHIVRAJ V. PATIL): Sir, I move:

"That the Bill to consolidate and amend the law relating to the governance of the Assam Rifles, an Armed Force of the Union for ensuring the security of the borders of India, to carry out Counter Insurgency Operations in the specified areas and to act in aid of civil authorities for the maintenance of the law and order and for matters connected therewith, be taken into consideration."

The Assam Rifles was raised in 1835 as Cachar Levy for watch and ward duties in the North-Eastern part of the country and to assist the civil administration in maintenance of law and order in the tribal areas of the erstwhile composite State of Assam. The Assam Rifles came under the control of the Central Government in 1941 with the passing of the Assam Rifles Act, 1941. The Force, which consisted of five battalions at the time of independence, was administered by the Governor of Assam under the overall control of Ministry of External Affairs. In 1962, this Force

was placed under the operational control of the Army and, in 1965, its administrative control was transferred to the Ministry of Home Affairs. The operational control continues to be with the Army. So, the administrative control is with the Home Ministry, and the operational control is with the Army.

At present, Assam Rifles is performing counter insurgency operations in the North-East under the overall control of the Army, guarding border with Myanmar, working as a paramilitary force under the Central Government for internal security management and assisting the Army in operational tasks as and when required during war or peace. It has grown to a strength of 46 Battalions today. The expansion of the Force and its role has made the administration and management of the Force a complex affair.

In 1941, the highest-ranking officer in the Force was a Commandant and, therefore, the Assam Rifles Act of 1941 recognises only Commandant and Assistant Commandant as the supervisory officers besides giving some powers to District Magistrate for awarding punishment for minor offences. The Act provides for superintendence and control of the Force and disciplinary action only up to the rank of Subedar Major. At present, the Assam Rifles has three categories of personnel. The first category consists of Riflemen to Subedar Major, the second category consists of Assam Rifles cadre officers and the third category is the Army officers on deputation to Assam Rifles. The Assam Rifles cadre officers are governed by the Central Civil Services Rules, 1965, for the purpose of control and administration. Under the Assam Rifles Act, 1941, there is no provision for taking departmental action against the Assam Rifles cadre officers. The ranks of Director-General, Additional Director-General, Inspector-General, Deputy Inspector-General, Deputy Commandant are not specified in the old Act. Section 6 of 1941 Act defines heinous offence like mutiny, abandoning of posts in the face of enemy, etc., but these offences cannot be tried by the Force authorities. They are to be tried only by a Sessions Judge. Offences peculiar to an armed force like unbecoming conduct, absence without leave, fraudulent enrolment, falsifying official documents, etc. do not find mention in the Assam Rifles Act of 1941. It also does not provide any departmental remedies like appeal, pardon, remission, etc. These are appealable only in Sessions Court.

It is for these reasons that it was considered necessary to have a new Act to administer and manage the Assam Rifles. The present Bill has been modelled on the lines of other border guarding forces of the Union, namely, BSF and ITBP. It borrows heavily from the ITBP Act which is the latest Act passed by the Parliament in the year 1992. The salient features of the Assam Rifles Bill, 2006 are:

The constitution of the Assam Rifles as an Armed Force of the Union, with provisions for its control and other provisions relating to its establishment, etc.:

Establishment and procedure of the Assam Rifles Courts, offences committed by the Force members, punishment thereof and trial of such offences by the Assam Rifles Courts;

Provisions relating to retention, custody and trial of the offenders under the proposed, legislation;

Provision for redressal of grievances of members of the Force who deams themselves wronged by their superior;

Provision for imposition of certain restrictions on the rights of members of the Force in terms of article 33 of the Constitution of India;

Confirmation, revision and execution of sentences, pardons and remissions, etc., and miscellaneous provisions;

Deductions to be made from the pay and allowances of the members of the Force for certain offences;

Provision for prohibition of second trial on the lines of the principles enshrined in article 20(2) of the Constitution of India.

Provisions for a period of limitation for trial of offences under the proposed legislation;

Provision for Law Officer to attend every General Assam Rifles Court and Petty Assam Rifles Court;

Manner of execution of sentences of death as well as imprisonment and provisions relating to powers and duties of members of the Assam Rifles;

Statutory protection for acts done by members of the Assam Rifles in discharging their official duty; and

Proposes to repeal the existing Assam Rifles Act, 1941.

Out of 12 chapters in this Bill, chapters 2 and 3 relate to constitution of the Force and service privileges. The next eight chapters relate to defining offences, punishments, penal deductions, arrest and proceedings before trial, constitution of the Assam Rifles court, procedures, confirmation and revision and execution of sentence, pardon, remission, etc.

The Assam Rifles Bill, 2003 was introduced in the 13th Lok Sabha on 8th May, 2003 and the same was referred to the Department-related Parliamentary Standing Committee on Home Affairs for examination and report. The Committee presented its report on the said Bill in the Parliament on 19th December, 2003. The Committee adopted the said Bill with certain recommendations which were examined and considered by the Government. However, the Bill lapsed on the dissolution of the 13th Lok Sabha. As regards recommendations in respect of clauses 2 and 108, necessary changes have been made in the present Bill. The other recommendations will be taken care of while framing the rules and regulations under the proposed legislation.

Sir, it is proposed that the Assam Rifles which was constituted in 1835 will be deemed to have been constituted under the proposed legislation. All expenses incurred concerning the administration of this Force would be met from the Consolidated Fund of India. As the Force has already been constituted, no additional expenditure of non-recurring nature is likely to be involved when this Bill is enacted and brought into force. With these words. Sir, I commend this Bill to this august House for consideration and passing.

The question was proposed

DR. M.S. GILL (Punjab): Mr. Deputy Chairman, Sir, I am happy to be asked to speak on this Bill, which intends to completely modernise the law, and put it all together in the best possible way for the Assam Rifles, I have a long background with the Armed Forces, the Army, in particular. Everyone, including me, in the past, has been with the Army of India, and I am proud to have grown up with them. I also have a very close association with the Central Forces of which the Home Minister, if I can call him that in the language of England and Cromwell, is the Lord Protector General. Why do I say that? Because the Indian Army we all look at, is about 2 million people. But he does not command less than

2 million himself. The Central Reserve Police Force, the Indo-Tibetan Border Police, the Assam Rifles, the BSF, a huge army in itself, and there are lesser forces-the Central Industrial Security Force, I could go on counting them. I think they might be even bigger than the Army. But, we should be very careful because the might get ideas and then we would at be very, very worried. Assam Rifles, this is one of his best forces. I personally admire the Assam Rifles. I have been to all corners of this country, certainly to the East many times, and have been to Shillong, made a special point as Chief Election Commissioner to go and spend an evening in their lovely headquarters. It is a tremendously disciplined force, beautifully turned out, and I like their soldering, and I like their attitude.

Therefore, I am happy that the Home Minister, has finally been able to bring this very comprehensive legislation, with all that has gone into it, over a number of years; because the 1941 Act is completely out of date, as he says. This Force's history is so romantic, you know the Kachhar valley, Lushail Hills and Garo Hills; I love those names from India's Eastern romantic States. I like those people, frankly very much. Specially, I like those people in the East, the tribal people and the hill people. Therefore, this is a force which deserves all this.

I looked at the little write up on the Bill at the back. "The Assam Rifles is an armed force of the Union..." "Like the Army", that is what it is called and understandably so. It has three duties put here-the security of the borders of India, counter insurgency operations in specified areas and to act in aid of civil authorities for the maintenance of law and order. This is a very complex duty. On the one hand they perform exactly like the Army and they are even seconded to the Army for very difficult operations and put on the borders. They fight and fight well. On the other, they have to do counter insurgency with our democratic society, unfortunately, with the kind of difficulties we have a may parts of the country but operating within our own country, against our own citizens of this Republic who have tremendous rights which must be maintained under the Constitution. Yet, these boys have to operate, have to help the Government of India of yesterday, or today or tomorrow and remain with very clear laws and Constitutional requirements, it is not easy to do, Sir.

The third one is simple law and order in aid of the police, the District Magistrate; that too they often perform. That is even more tricky because

most of demonstrations are never in the villages and nobody ever gives credit to the villagers, of whom I am one. All demonstrations, all rioting is in the cities for many reasons. I can understand that. Therefore, when this force, which is essentially uniformed and is trained like an Army force for more complex duties, when it has to aid the civil power, that is even more onerous duty and it is with all these things, now the law made by the Home Minister has to deal with in a manner which is good to the force, good for the country, which is also fair to the Jawans. Nobody talks of the Jawans too much today in the country. I am afraid I have to say this. Whatever you say about the British as imperialists, and I hear enough of that here, but the fact is, one of the tricks they had for imperialism for 300—400 years, they knew how to deal with the Jawan and to look after him, whether he came from Patna or Amritsar or wherever, he, his family, his welfare, his difficulties; because he is on the frontiner in the North-West or Baluchistan in those days, or somewhere else. And therefore, they were able to do their job for themselves very well. We seem to have forgotton that. Our officer cadres, I know them intimately whether of the Armed Forces or even of the civil forces, they also lack somewhat as opposed to the British period. The British may have had reasons politically to do it, but anybody who commands men has to do it if you want a healthy force, a disciplined force, a force willing to fight for you, to go in front of you not behind the officer and also a force which functions properly. It is not easy to do. Today we get these problems all over. Therefore, when I have looked at this Bill, I have a few points to make, for the consideration of the Home Minister. Obviously for dealing with discipline, dealing with crimes, dealing with difficulties, which will occur in a battalion or brigade of these people, you have these Assam Rifles Courts. I think it is equivalent to an Army court martial. That is what I see it as. That is the highest court they have. Now, there is one little point I have there. I find that it is to be composed of Assistant Commandants, who should be about the DSP level or Junior SP level. I am trying to estimate. ...(*Interruptions*)... Please आपके साथ ही हूं। Assistant Commandants ....(*Interruptions*)... Three of who should have at least three years service as Assistant Commandant. That means a very junior officer just promoted 3 साल तो कुछ भी नहीं है, and five of whom should have been Assistant Commandants, I do not want to read it, but that is all there is. Now when you look at it, then they should be assisted by a Law Officer, who is only

to assist them, who is from the Department, I guess of the Assam Rifles, like the Army has Judge Advocate General's Branch, they all have that, and somebody should be appointed to assist them. He is not a member of the court. Here I have a difficulty. I think because the power, the punishment they can give is right up to death. It will never happen perhaps but it could happen, and you can either shoot him or hang him. That is what you do with forces. And there is life imprisonment and other serious offences. Now five Assistant Commandants and the law men who knows a lot about justice and fairness and things like that are only, their own departmental men who will be not really able to speak independently or not have enough say. I was thinking would be Home Minister consider that out of the five, one man should be a member with legal background or something like that. He can think about it with his officers. I do not want to go into how you should appoint him and who he should be. But I would prefer to have one man to be there. I would also prefer to have on this Assam Rifles Court, the General Court Martial, as I call it, more senior people because the punishments to be recommended are to the highest possible level which is shooting or hanging. It is a force of 46 battalions. It is going to go on, unfortunately, growing, 46 battalion is an Army bigger than the armies of most of the countries, in the world. Just Assam Rifles, in my judgement, in my knowledge, is bigger than most Armies anywhere who are able to beat them in their own countries. That too I can tell you. So, they have plenty of officers. It should be possible to have more senior people and have a legal man inside there. Then the confirmation of what they recommend and the lesser courts do a similar thing, that too there are powers, enabling powers, the Government, the Home Ministry and officers empowered, I do not like to see those things in serious offences go down, down, down the ladder and ultimately they are routine confirmations, 'what they have done, we will sign.' There are so many files to be cleared in the Home Ministry, in any Division every day. That too should be thought about and should be worried about because they need this fair dealing from us and from their superiors particularly as I am trying to emphasise and as I watch closely, I watch closely the Punjab Armed Police, PAP, and there are others in every State, and these days when I see closely, and now either I am old, certainly, I am not saying, I might be old, and, therefore, I tend to think that the past was better. But I also see that sometimes the kinds of officers I see in various positions in our controlled situations not Jawan welfare-minded or as fair-minded as

I thought they might have been or used to be or something like that. So, I worry. Therefore, the confirmation procedure should be, because in these forces particularly, when you are a force the oppression of a bad officer can be terrible. Everybody up the line will in routine cover him and you. Sir, are too high up there and you cannot deal with every little case. That is something else. Then, there is a second thing. Since, they have duties to protect the citizens of India, both against insurgency and in law and order but insurgency particularly, we had to worry and take prompt action and make sure that this force does not get the unhappiness of its own people, the citizens of India. I will refer only to two cases. Here I am talking of general forces, Army as well as all the forces under the Home Minister which are listed out because they all are roughly performing the same. Sadly, for us, even the Army now for a decade or more has been brought into insurgency fighting for which they were never meant. All the books and the codes of Armed Forces anywhere in the world say, 'no'. They should train for war with people outside; otherwise, if you bring them inside for doing duties, they will themselves lose discipline or diminish efficiency. But we have had to do it and I recognise what is happening and I understand what is happening and, therefore, all the time Government of the day is struggling to make sure that they do not go off the rails. These forces, in any case do much more and in that we have to worry. Since we are talking of the Assam Rifles. I read newspapers extensively and I remember, as all of you know more than me, the case in Manipur where a young lady was shot, and there was a lot of difficulty and Government had to deal with it in a very, very comprehensive and sensitive manner to the best of their ability. But, I also know and, I think, the Home Minister knows that there is still a young women sitting there on a perpetual fast. I cannot recal her name; I wanted to get it but I could not. आप लोग जानते हैं और सब जानते है And she is still sitting there. This is a country of Mahatma Gandhi and fasts and all that. We have to be sensitive. Somebody, I hope, is looking at that young woman and trying to see what can be done. I won't go into anything more because this is not the occasion for me to talk on this and I do not know more. But, as a citizen, as an MP, I do read and that is the kind of thing, on the one hand these forces have to deal with. The second case, I would also refer to, which is in the news, in one particular paper extensively. I have spoken on it and that is, in the last Government period, President Clinton was here and in a Sikh village in Kashmir all the 35 males of the village were shot, the day President

Clinton was here, and I happened to be at a lunch where he was. They were all shot and the village in Kashmir Valley was left only with widows and orphans. But some how, that has never been looked at. Pakistan denied it again and again. Now, those in authority would know what it means or where the matter lies. But what amazed me was that five men, four days later were shot as people who had come across and they were the men guilty and they were shot by the Armed Forces, perhaps, the Kashmir Police were with them and the case was solved and congratulations were given and taken. Then for the five, not for the 40, — 35 plus five—for the five, they kept on arguing, the Valley kept on demanding, they were locals and soon it was found that they were villagers from two miles around. Ultimately, it is a long story. All of you know it. The CBI finally now brought the investigation to a close and said, 'yes, we admire the Army but there are one or two cases where we must deal with it because that is necessary for a good democracy'. I say, again and again, that the strength of a good democracy is not, Sir, an Armed Force, no matter how huge. It is really justice given to all without exception, without hesitation and firmly and promptly. This is what I say. Now, the five have been found innocent and I congratualate the CBI and the Home Minister and all those involved and the CBI Director went on record and he said we have to look at this, for these reasons as I have quoted him more or less, and the case is in the court, it has been put. But, I do want to ask that if they did not kill Cock Robbin, then who killed Cock Robbin? The thirty-five, with all the background known to everbody, should the CBI not conclude this inquiry and bring everything out about their massacre? Are they not equal citizens there or here? This has to be looked at.

I am going back to the forces. Therefore, for the forces, we have to be very careful. On the one hand, we need these forces, They are doing a great job--each one, without exception. And they deserve our support. And, on the other, in an impossible situation, under great pressure, if aberrations take place, then, this great Republic must be able to deal with them with a single, clean, clear eye. No exception. There is a very popular phrase thinking out-of-the-box-today with all us. I personally take it as poor or bad English. What I would say is 'fresh thinking.' That is all it is. Fresh thinking. Something new. And, I, therefore, want to propose to the hon. Home Minister. I was just quickly trying to think. Would he consider, I know the structure of the Home Ministry, to have a very carefully

chosen person. It could be a lady, might be even better, with complex qualities—whatever they be; he can think better—and he could be since he has to deal with so many responsibilities and this is a huge one for the health of the country and his Ministry, a Civil Society Protector. I would call him as CSP. It may be a man or a woman, who is only a quiet inforal advisor to him, not everyday press shouting and his reports to be published to all and sundry. No. He is able to travel anywhere. He is able to look at all sorts of things which are happening across this sub-continental country and he is able to quietly come and suggest to him over and beyond the commanders of the forces or anyone else in the hierarchy so that he can think. Nothing more. After that, it is up to him as to what he should do or what he should not do. It is up to him. It is an idea. It is not the last word on this matter anyway.

Finally, I would like to touch upon the health of the force. They are under so much pressure. And I watch each of them from the Army downwards. I am amazed as a person grown up with the Army that we have had in Kashmir and we have had with his forces that Adjutants shot their Colonels. The British Commanders would have blown their brains *ki* this happened to our force. Why did it happen? You regularly get a Havaldar shooting four others in his own force! It is happening out of pressure, out of psychological problems, out of mental health problems because it is an impossible duty they do. And, therefore, I believe, we need to look not just at this force, but all of them in a much greater, more intense way at the health of these forces which is in its totality. The health--physical, mental and stress--somehow has to be looked at. Otherwise, you get trouble.

Then, there is welfare of these forces. They are perpetually on this border. When they get off from this border, they go to Mizoram. When they get off from there, they go to Ladakh. This happens to the Army. This is happening to this force. Now, do they get enough leave? Are they able to go to their families? Do we have tolerable housing for families to stay In? Otherwise, where does the wife stay with two kids or ten kids? Do they get schooling? Do they get support? And, even in civil society in their village or in their little town, his families are having all sorts of trouble with local neighbours who are not so good neighbours and who are more able to push, because they are there and this poor man is out there in Ladakh or in Mizoram. So, there is nobody in the house to fight his little battle. The women cannot fight it. And, therefore, they are able to muscle

in. Now, for the Indian Army, again, had this. They took care that the District Magistrate, the S.P. and all the structure will give some special attention to their grievances. They will be heard. They will be given some redressal. I think, this should be thought of even for the so-called civil forces, from BSF to border police to Assam Rifles. And, I think, the Home Ministry needs to think of it and make it more intensive. Somebody should be working on all that. We have to work on all these items to help them. For that, again, I have a suggestion to make to him. He should get himself, again, not just another policeman appoitned in his staff. No. Somebody, again, with different qualifications, different attitudes, whether he comes from the medical or civil or this or that, should be appointed. That is not my worry. I am sure they can think of it. But I would have a Forces Welfare Commissioner (FWC) in his office. एक ऐसा होना चाहिए, who is all the time thinking of this range of problems, not just for the Assam Rifles, he should be applicable to all the forces, H.M. has with himself. When you have got thousands of officers in the Home Ministry down to the polices लाखों बैठे हुए हैं। one more person can be put. He does not need a vast office. He is really to be your thinking man. The English, Tony Blair and others have lots of these little advisors, one man, but he is writing papers. I was yesterday reading about Sir Olaf Caroe, then Governor of North West Frontier Province in 1946, when Lord Linlithgow was Viceroy. There is a remendous book published by American scholars, taking out all his papers; and, how in 1944, 1945, 1946, when we thought they were going and we were going to kick them out, and we did manage to get rid of them, he and a group of British Officers, the highest in Delhi, Army, civil, economists, all composite, were doing long-term thinking for India and its border and its welfare and its Foreign Policy. I think, when I say 'Forces Welfare Commissioner', such a person is what I would suggest to him. These two positions would advise him, give him advice outside these forces, independent, thought out, studied, written out and presented to him so that it helps him do his...*(Interruptions)*... Paniji, please ...*(Interruptions)*...

श्री रबीनारायण पाणि (उड़ीसा): गिल साहब बहुत बढ़िया बोल रहे हैं, लेकिन उनकी पार्टी के श्रोता बहुत कम हैं। ...(व्यवधान)...

डा॰ एम॰एस॰गिल: कोई बात नहीं। Doesn't matter. Don't worry about that. ...*(Interruptions)*... आप तो सुन रहे हैं, न! ...(व्यवधान)... मेरा तो आपसे रिश्ता है। ...(व्यवधान)...

श्री उपसभापति: आपके लिए बोल रहे हैं ...(**व्यवधान**)...

डा॰ एम॰एस॰ गिल: मेरा तो आपसे रिश्ता है। ...(व्यवधान)... Therefore, Sir ...*(Interruptions)*... कोई बात नहीं। कोई बात नहीं। ...(व्यवधान)...

श्री रूद्रनारायण पाणि: आपके श्रोता कहां हैं? ...(व्यवधान)...

डा॰ एम॰एस॰ गिल: पाणि जी, दुनिया मुझे टी॰वी॰ पर कहीं-न-कहीं देख रही है, सुन रही है। ...(**व्यवधान**)... उड़ीसा में बैठी सुन रही है। ...(**व्यवधान**)... Don't worry about that. So, I would, Sir, make this little suggestion, but I commend the Bill, I congratulate the Home Minister, all those in the Committee and in his organization, who have worked to put this. I presume you already have a Bill for the Indo-Tibetan Force. A modern Act, I hope, you have for the CRPF. This is all to be commended and to be congratulated. Thank you.

SHRI RAVI SHANKAR PRASAD (Bihar): Sir, I rise to support this Bill. The Assam Forces were earlier governed by the 1941 Act, as hon. Home Minister has stated. Obviously, after so many years, it is a new instrument for their administration, for logistical reasons, for reasons of discipline, for reasons of career advancement, for reasons of proper administration. Therefore, this present Bill is certainly the need of the hour for better management of this force. I don't want to go into the nitty-gritty of the entire Bill because there are a large number of provisions. There is one provision which is slightly frightening for me, hon. Home Minister. There are so many provisions of punishment. I was just cursorily going through the Bill, there are a large number of provisions giving this punishment, that punishment. All right, if they are needed, I have no to comment. The Standing Committee has also made certain comments. But we have to ensure that the administration of these penal provisions is done in a fair and just manner. I think, that is a caution I would like to certainly administer. The reason, as to why I am saying so is that there is a provision for fourteen-year punishment even in a case you have been found to be occasionally sleeping on some border. Maybe, on one view it may be correct that if you are giving a sensitive assignment of counter-insurgency operations, of providing security at the borders, that too in a vulnerable area like the North-East. I think, it is very important that these provisions are properly administered. I think, there are three issues which I would like to say, while supporting this Bill, to the hon. Home Minister. First, there is for the first time the provision of Court Martial, like the

Armed Forces, has been introduced in this Bill. It is good. If discipline requires this Institution, we have no objection. But what is troubling us is that court Martial proceeding is coming for repeated judicial reprimand. I think, this is, indeed, a very serious issue, which we need to reflect upon. Earlier Court martial was considered as a sacrosanct Institution. What the Court Martial said was taken as conclusive and final. Now, in judgements after judgements, in the high courts or the Supreme Court, court martial proceedings are found to be infirm, afflicted by bias, prejudice, and lack of procedural fairness. This is, indeed, a very serious issue which we need to ponder upon. On the one hand, we need proper discipline in the Forces. In the modern times, we also need to assure them of a fair sense of justice. While going through the provisions, I was not sure, hon. the Home Minister, as to how the fairness of procedures would be assured. That is one issue which is troubling me a little.

There are two larger issues which I must also flag upon and I would appreciate if I get a response from you. These Forces are undertaking a very sensitive responsibility. If we allow them free hand to work, they would give proper result. But, unfortunately, in the sensitive assignments they are required to undertake, whether of counter insurgency or of containing infiltration, at many points of time, political considerations come and they are prevented from completing their assignments or the jobs for which they have been created. But, one trouble which is repeatedly occurring, the hon. the Home Minister, is that these Forces are working under streass. Repeatedly, we hear information as to how there was attempt of suicide, there was attempt of trying to kill many colleagues; four or five of them were killed. We frequently hear hese cases of paramilitary forces, many of them are Armed Forces or the CRP or the BSF. Of late, these incidents are on the rise. What is the Government doing to contain this? Are our men under great stress? Or, are their concerns not being suitably addressed? There was a case that he was willing to go to see his ailing mother. He was denied. He was repeatedly trying. He lost his balance and tried to kill himself and he killed four of his colleagues. Now, these kinds of stress-related occurrences have become quite frequent among the Forces. Hon. The come Minister, we are all concerned. Today, we have got the occasion. So, I thought I must flag this issue to you as to what the Government is proposing to do because this is on the rise, earlier it was isloated. Now, we learnt that last year

even in the bungalow of a Minister in Delhi some occurrence took place where some particular *Jawan* was under stress. I think this is an issue which I would like you to address.

And the last issue is this. Though it is a part of discipline, it is a larger issue. Yes, we all agree that against those who are guilty, whether terrorists or extremists, action needs to be taken. Our police forces and armed forces work under serious conditions of stress. They are sacrificing their life for saving our country, ensuring our security, maintaining our integrity. It is good that the must address the issues of human rights. We all want them to be sensitised of the issues of human rights. But, unfortunately, what is happening, of late, hon. the Home Minister, is, and you must have noticed this, many of our men and officers of the Armed Forces are becoming scapegoats. I would like to highlight the recent instance where in a particular case of Kashmir, the police forces have been ignored and the Army Officers have been implicated in a CBI Inquiry. If there are certain serious issues of lapse, I am not here to condone that. But, behind the veneer of these inquiries, if the morale of officers is sought to be compromised, that is, indeed, a very serious issue. Why I say so is that these officers, these men, are, after all, ensuring the integrity of our nation, of our security. If they are hundred per cent right in a hundred cases, maybe, in five cases, there may be some deviations. I understand that. I can understand that, but there has to be a way to handle that. But the CBI going and implicating officers like Brigadier, Colonel and Captains which you have read in the newspapers, is a very serious issue. And the record of Jammu Kashmir police, I need to say the least. It is not the occasion to discuss that. Therefore, the hon. Home Minister, taking the opportunity of the discussion on this particular Bill, these larger issues, I thought, I must flag to you. With these observations I support this Bill. Thank you.

SHRI MATILAL SARKAR (Tripura): Mr. Deputy Chairman, Sir, first of all, I rise to support this important piece of legislation. It is a very commendable legislation. Sir, I would like to register the heroic performances of the Assam Rifles in the past, in the recent past, and for the current period. We have heard that these regiments played a very important role during the World War-II. This we have heard and what we have seen in the recent past is that they are playing a heroic role in containing terrorism, in counter-insurgency activities and in maintaining

law and order. Sir, this Force was raised in the year 1835 as was pointed out by the hon. Minister. They were engaged in watch and ward duties in Cachar Hills to maintain law and order in hilly, tribal areas, to maintain peace and harmony in the simple life of the tribal people in the old hilly areas of the Assam province. Sir, earlier, in the old Assam province, Nagaland, Mizoram and areas like this were included. Firstly, they (Assam, rifles) were under the control of the Ministry of External Affairs. They were brought under the Ministry of Home Affairs in the year 1965. After performing duties these long years, what we see now is that the Assam Rifles Act, 1941 is not operating in the true sense it should do in the present day. That is why the question of new Bill has come. Some changes have occurred during these years, for example, changes in the size of the battalions. Initially, there were only five battalions. Now, the Assam Rifles have got 46 battalions. So, their size has grown, their responsibilities have multiplied. So, in order to meet the requirements adequately in the present day, this very old Act, which was adopted in 1941, does not hold good.

[THE VICE-CHAIRMAN (SHRI KALRAJ MISHRA) in the Chair]

Sir, I would like to point out some of the lacunae, which prevailed in the old Bill, that is, in the existing Act. Sir, the administrative control was with the Ministry of Home Affairs and the operational control was in the hands of the Army. So, there was a contradiction because while the operational control was vested with the Army, the administrative control was in the hands of the Home Ministry. So, dual nature of rules had been engraved in that law. Therefore, this Regiment could not function well. With this dual nature of rules, this Regiment could not function well.

Sir, there was another lacuna, and it is that up to the rank of Subedar Major, the Act was applicable, that is, the Act of 1941. But, in the case of the officers above the rank of Subedar Major, the Central Civil Services Rules were applicable. So, in the same Regiment, for the lower officers and staff, there was one set of rules to control them and for the officers who were above the Subedar Major rank, the Central Civil Services Rules were applicable. So, there is an inner contradiction in the Regiment itself. So, all those lacunae had to be done away with, and this has been taken care of in the new Bill.

Sir, what has been said in the objectives of the Bill is that the Assam Rifles Bill, 2006 is being introduced with a view to consolidate and amend

the law relating to the governance of the Assam Rifles, an Armed Force of the Union for ensuring the security of the borders of India, to carry out Counter Insurgency Operations in the specified areas and to act in aid of civil authorities for the maintenance of the law and order and for matters connected therewith.

Sir, while mentioning these objectives, I would like to seek some clarifications. So far as the issues related to counter insurgency and maintenance of law and order are concerned, these forces have to work in some areas of the country, which are, particularly, within the control of the State Governments. But, nowhere I find in these provisions as to what will be their relation with the State Governments. The Forces will be under the control of the Home Ministry and they would have to operate in the States, in the tribal areas or in the plain areas, whatever it may be. In this case, what will be their relation with the State Government? I think, there is a scope for disputes or contradiction with the State Government. Sir, what I would suggest is, while they are working in a State, there should have been a specific provision to see how the coordination will be maintained with the State Government, how far the State Government will be able to control them, to guide them and to utilise this Force. I find there is a shortcoming in this Bill also. Sir, I would like to urge the hon. Home Minister that while framing rules this should be taken care of, so that the force, when placed in different States, does not find any difficulty in working these and, at the same time, the State Government does not find any difficulty in controlling and getting work out of them.

Sir, I would now invite the attention of the hon. Minister to clause 15 wherein provision has been made for redressal of grievances. My point is that if any officer of the Assam Rifles poses to take a motivated step towards any personnel, then the scope of redressal becomes very limited by this provision. It is suggested that a sort of official body like a tribunal or a sort of institution should be in place that can hear the grievances of these personnel who find themselves as victims.

Sir, I would like to invite the attention of the hon. Minister to clauses 55 and 56 where the question of civil offence has been mentioned. If a member of the force is found to commit civilian offence—he may be on duty or may not be on duty—how would his offences be contained? Here, there is a very important provision that the Assam Rifles is having courts of three types, including summary Assam Rifles courts. I understand that

these courts would also take care of the civil offences. But my question is, if the offences is committed on the common people, not belonging to the force—there may be breaking into houses, rapes and things like that—the common people would have no easy approach to the Assam Rifles courts. It would be difficult for them to get justice from the Assam Rifles courts. Therefore, Sir, I think that there should be some provision in the Bill itself, so that the people who are not within the purview of these forces, the common people, have the opportunity for justice in case of such occurrences. I think, in that case, besides these three types of courts, there should be some other mechanism so that ordinary people can have easy approach to them.

Sir, I would now like to invite the attention of the hon. Minister to clause no. 92(1) where summary Assam Rifles Courts has been given the power. But here, it is one-man court and I hope these provisions will be utilised in exceptional cases. I understand that. Even then, it is a one-man court and there is very poosibility of committing autocracy; there is every chance of an autocratic implication. So, what I suggest is that in this case, the implication of this clause should be considered, so that the one-man bias does not do injustice to the lower-ranking officers and lower-ranking staff. Sir, while concluding, I would again like to emphasise the glorious role that the Assam Rifles is playing. In my State also, Assam Rifles regiments and battalions are there. What have we seen? Their role is very much appreciable in containing terrorism. At these centres, what we see and I have seen with my own eyes, these Assam Rifles *jawans* collect youths and give them some training so that these boys can get an opportunity and make themselves fit for joining these para-military forces. Such types of training these Forces are giving and the local people are also getting encouraged. This is their social aspect also. Sir, the regiments like Assam Rifles are also having some social aspects. So, I hope that after the acceptance of this Bill and when this Bill will come into force, all the points that I have raised regarding the relation with the State Government, the contradiction regarding the control of the Army and the control of the Home Ministry, etc., will be taken care of and this will be done away with so that the aims and objectives of this Bill can be achieved in the true sense of the Bill. Thank you.

SHRI B.S. GNANADESIKAN (Tamil Nadu): Sir, it is the oldest Force which was raised in 1935 and which got a statutory approval in 1941.

4.00 P.M.

The said Act was repealed and the Government has brought forward this comprehensive enactment, that is, Assam Rifles Bill, 2006. Sir, I rise to support this Bill and I want to give certain observations and my views on the subject. My esteemed colleagues on either side have given their valuable suggestions. Particularly, they expressed their views that these Forces which are disciplined Forces, which are guarding our borders, which are protecting the lives and liberties of the citizens of this country and which guard the houses of VIPs require a more human approach and require considerable welfare measures to take care of their feelings and remove their stress so that they can take up the concerns of their families. Sir, I support the views expressed by my colleagues. Particularly, references were made, in the recent past about the temperamental behaviour of certain *Hawaldars,* about shooting incidents killing their superiors and colleagues. If you go into the fundamental reason for the same, it is only leave is asked for, but no leave was granted. When there is a pressing need to go and attend to family functions or the child, leaves were not granted by superiors. Sir, though the Armed Forces and the para-military Forces require a different level of treatment than the ordinary civil forces, yet they are also human beings. Therefore, the approach should not be with a wooden heart, but there should be some human sentiments to treat them at par with the civil society. Therefore, Sir, if one indifferent person, a superior officer, is given the responsibility, he will spoil the whole Force with his indifferent attitude. At least, in civil services, there are options to go out of that area, option to go out of that superior officer. You can go on deputation. If you are in State service, you can come to the Centre. If a particular Department is not suitable, you can go to other Department on deputation. But, in Armed Forces, no such facilities are available. Therefore, more care has to be taken in vesting powers to the superior officers. Sir, with these preliminary observations, going to the Act, I want to comment upon certain clauses for the kind consideration of the hon. Minister.

Sir, as one hon. Member suggested, there are number of penal offences that have been catalogued in this Bill. Particularly, subject to correction by the hon. Minister, I would like to mention about 'active duty', which has been defined in the Bill. The 'active duty' is defined in clause 2(1)(a) which includes "operations against an enemy, or an insurgent, or

a terrorist, or any person in arms against the Union." Then, clause 21(f) says, "in time of active operation against the enemy intentionally occasions a false alarm in action, camp, quarters or spreads or causes to be spread reports calculated to create alarm or despondency." Sir, the words used are 'active operation' which is also defined in the definition clause. The punishment here is either death sentence or less punishment under that Act. Then, again, under clause 23(e), same offences are related. It talks about false alarm in camp or quarters, spreading rumours, reports calculated to create unnecessary alarm, etc. But, the punishment under clause 23(a) is 14 years. Therefore, there is some inconsistency between clause 21(f) and 23(e) and also read with clause 23(a). Because here also, the word used is 'active duty'. Therefore, I would like to point out to the hon. Minister, subject to correction, that there is some inconsistency in that clause. Sir, I request the hon. Minister to take into account the insensitivity to the human problem of the superior officers. Even for the direction of the superior officer to go to school, when ordered and not attending the school, the punishment is three years' imprisonment. It is too harsh. And, therefore, I draw attention to clause 26. Provisions of punishment and the offences for punishment also require consideration by the hon. Minister.

Sir, I take two-three clauses for the kind consideration of the Minister, particularly regarding Assam Rifles Court which has to be formed. There are three types of Court—General Assam Rifles Court; Petty Assam Rifles Court; Summary Assam Rifles Court. Under clause 128 of the Bill, it has been defined, or it has been clarified, that any trial by the Assam Rifles Court under the provisions of this Bill is deemed to be a Court under the Code of Criminal Procedure. And, the Indian Evidence Act is also applicable. If that is so, there are two-three things which require consideration by the hon. Minister, namely under clause 93, suppose the Court is formed, and after the Court is formed, if for any reason of the illness of the Law Officer, or accused finding impossible to continue the trial, the Assam Rifles Court is dissolved, then after dissolving the Court, again it is reconvened, in which case, the accused may be tried again.

Therefore, once the accused has undergone the agony of trial, then, if for any reason, the court is dissolved, again, the retrial has to take place, which brings hardship to the accused person. If the procedings are recorded, if the evidence is taken and recorded, then, there is no

need for retrial of the same offence. It can continue from where the proceedings were left. Similarly, under clause 108, subject to the provisions of sub-sections (2) and (3), every decision of the Assam Rifles Court shall be passed by a majority of votes; and where there is an equality of votes on either the finding or the sentence, the decision shall be in favour of the accused. Again, I request the hon. Minister to reconsider this clause. It should be by the majority decision. It cannot be by a majority of votes. I do not know why that sentence has been incorporated. If I am corect, it must be by a majority decision.

Similarly, under clause 120, if there is a previous conviction, it can be taken note of for the purpose of ascertaining the character. Under sub-clause (2), it is stated that the evidence received under this section may be either oral. If it is a previous conviction by the Assam Rifles Court or any other proceedings, it cannot be an oral evidence. Either it has to be produced by a certified copy or the earlier proceedings have to be produced before the court. It cannot be by an oral evidence that the previous conviction can be established. That also requires some consideration.

Again, another thing which is against the fundamental principle of jurisprudence is that, if at a Summary Assam Rifles Court, the officer holding the trial may, if he thinks fit, record any previous convictions against the offender, his general character, and such other matters as may be prescribed, as of his own knowledge, instead of requiring them to be proved under the foregoing provisions of this section. Here, I would like to state that no judge can decide that I have knowledge about this accused person, I have knowledge about his previous conviction, and therefore, I record it that he had a previous conviction. Therefore, I record the same and take it into account for the purpose of fresh conviction. A judge cannot do that. Either it should be evidence on record or it can be decided after providing an opportunity. That clause also requires consideration by the hon. Home Minister.

Sir, our Armed Forces are doing an exemplary work, and they deserve all sympathy and consideration, and as suggested by my learned colleague, Dr. M.S. Gill, I feel that there should be some positive approach by the Government to have some welfare officers in every battalion, with a coordinated effort at the Central level to take care of their welfare measures because, in many cases, the atrocities committed inside the

battalion by the superior officers go unnoticed, and do not come to the notice of the civilised society. In Delhi, we used to see that the personnel of these paramilitary forces are put to a very great hardship in winter as well as in summer. They require all support and consideration by the Ministry and by this Parliament. With these words, I support the Bill.

SHRI SHIVRAJ V. PATIL: Sir, all the hon. Members who spoke, have supported the Bill, and I would like to thank them. They have made certain general remarks. These remarks relate to the welfare of the members of the Force; they relate to the trial of the cases by the courts constituted under this law. I have taken note of the suggestions given by the hon. Members with respect to the welfare of the members of the Force. We do have officers in the Forces, who look after the welfare of the members of the Forces. There are schemes made by the Forces themselves, and those schemes are implemented to help them, their family members in travelling from the places where they work to the places where their family members live, to help them in case they are injured or they are killed, compensation is given; huge amounts of money are also given to them. And this matter is constantly looked into by the officers at the higher level, and also in the Ministry. If something more is required to be done, we would be only happy to do that for them.

As far as the trial of the offences is concerned, the courts will be constituted. It was rightly suggested that the trial should be fair. Otherwise, the Forces would be demoralised. As to how to make these trials fair is considered, and suggestions have been given. It is not necessary for me to go into the details of the procedures which have to be followed in conducting the cases. First of all, the matters will be looked into not by one person sitting as judge, but by many persons sitting as judges. The law provides that if the accused objects to any person sitting as a judge, that matter can be considered by other members, and if other members also say that that person should not be sitting there as a judge with them, then some other person can be asked to sit with them, and the matter can be looked into. Now, there are summary cases, petty cases and serious types of cases. As far as the serious types of cases are concerned, the judgement given or the sentence passed by them has to be confirmed by the Home Ministry or by the officer appointed in the Home Ministry. Generally, the Director-General will be given an opportunity to look into the sentences passed by these courts. That means the courts at a very

higher level. The murder cases are tried by the Sessions Judges. They are not tried by the Supreme Court Judges or the High Court Judges, but they are tried by the Sessions Court judges. Now, here also, the officers who are having enough experience will be appointed as judges, and they will be allowed to conduct the cases. In the Army as well as in the police, there are officers who are trained to conduct the criminal cases, to get the evidence on record, to examine the evidence, to interpret the laws and to pass the sentences. They are not the persons, who are ignorant in matters of law. They are the persons who are trained in the matters of law, who know how the laws have to be interpreted, how the evidence has to be assessed and how the sentences have to be passed. Now, such persons are generally allowed to sit in the courts, and they pass. And, then, there is at a high level, a confirmation required. Now, this is also a sort of precaution taken to see that the serious matters are not lightly decided. Over and above this, Sir, the matter can go in appeal also and, then, it can be decided. So, all that in necessary to see that the matters legal are dealt with in a proper manner is provided in this law. Now, these provisions have been lifted from the other laws which are being used for managing the ITBP or the BSF, and for managing the Armed Forces also. If anything more is required after this, and if it is brought to the notice, it can be looked into. But I do hope that precautions have been taken to see that there are good provisions which can help in seeing that proper jutice is dispensed to the accused persons. On that count, there should not be any difficulty.

Sir, one thing which I would like to mention here is that when a matter of this kind is taken up, we express our views and we suggest that those who are willing to sacrifice their lives and limbs for protecting others' lives and limbs, the integrity and the unity of the country, and the sovereignty and the territory of the country should be looked after properly. Now, what is very important these days is that, sometimes, they are criticised in such a manner that they get demoralised. Criticising them has to be done in a proper manner. Sometimes, we, who are sitting in this august House, also do not realise that how many people are dying to protect the lives of other people who are not related to them in any manner except the fact that they are the citizens of India. People from Kerala go to Assam and Nagaland and they die there while protecting the property and other things. Now, people from different parts of the country are

going and fighting in the border areas. They are trying to protect the lives of the people in different parts of the country. We shall have to be very careful about it. Sometimes, a statement is made on the floor of the House criticising the policemen like anything. Then, I have to while replying, say that we, who are sitting here, should not forget that six policemen died to protect this entire Parliament and the lives of the people who were sitting here. We should not forget that. Therefore, we should not lightly, without applying the mind and without going into the facts, criticise them. If they commit offences, they will be punished by themselves and by the courts also. But without going into the root of the matter, if we lightly criticise them, it would be a demoralising factor. More than the salary, if we unjustly criticise them, they are likely to be demoralised. It has to be avoided and avoided in the case of those who are willing to die so that others live. I would not like to say anything more than this. I am very happy to note that the entire House is supporting this Bill and, I am sure, this Bill will be passed by all of us within minutes.

THE VICE-CHAIRMAN (SHRI KALRAJ MISHRA): Now the question is:

> "That the Bill to consolidate and amend the law relating to the governance of the Assam Rifles, an Armed Force of the Union for ensuring the security of the borders of India, to carry out Counter Insurgency Operations in the specified areas and to act in aid of civil authorities for the maintenance of the law and order and for matters connected therewith, be taken into consideration."

The motion was adopted.

THE VICE-CHAIRMAN (SHRI KALRAJ MISHRA): We shall now take up clause-by-clause consideration of the Bill.

Clauses 2 to 168 were added to the Bill.

Clause 1, the Enacting Formula and the Title were added to the Bill.

SHRI SHIVRAJ V. PATIL: Sir, I beg to move:

That the Bill be passed.

The question was put and the motion was adopted.

THE VICE-CHARIMAN (SHRI KALRAJ MISHRA): Now, we shall take up Short Duration Discussion on the communal violence in Vadodara and other parts of the country. Prof. Alka Balram Kshatriya.

SHORT DURATION DISCUSSION

Communal Violence in Vadodara and other Parts of the Country

उपसभाध्यक्ष (श्री कलराज मिश्र): प्रो॰ अलका क्षत्रिय।

प्रो॰ अलका क्षत्रिय (गुजरात): धन्यवाद, उपसभाध्यक्ष महोदय। आज मैं एक ऐसे विषय पर इस सदन में चर्चा करने जा रही हूं, जो न सिर्फ गुजरात के लिए, बल्कि पूरे देश के लिए आज चिन्ता का विषय बनाया हुआ है। खास करके साम्प्रदायिक दंगे और गुजरात, ये दो शब्द मानो एक पर्याय बन गये हैं? हम जब भी कभी बाहर जाते हैं और कहते हैं कि हम गुजरात से आए हैं तो पहले लोग हमें बड़े आदर से देखते थे और बड़े सम्मान से कहते थे कि आप गांधी जी के गुजरात से आए हैं। ...(व्यवधान)...

श्री अजय मारू (झारखंड): आज भी आदर से देखते है। ...(व्यवधान)...

प्रो॰ अलका क्षत्रिय: हां, आप देखते हैं। नरेन्द्र मोदी को किस तरह से देखते हैं, वह आप भी जानते हैं। ...(व्यवधान)...

श्री अजय मारू: गुजरात आज इस देश का नम्बर एक प्रदेश है। ...(व्यवधान)...

उपसभाध्यक्ष (श्री कलराज मिश्र): अजय जी, आप बैठ जाइए। ...(व्यवधान)...

प्रो॰ अलका क्षत्रिय: हां, नम्बर एक है। ...(व्यवधान)... साम्प्रदायिक दंगों में भी नम्बर एक है। आप यह भूल रहे हैं। ...(व्यवधान)...

उपसभाध्यक्ष (श्री कलराज मिश्र): आप बैठिए, बैठिए। ...(व्यवधान)... अलका जी, आप बोलिए। ...(व्यवधान)... लाठ जी, आप बैठ जाइए। ...(व्यवधान)... आपका समय आएगा, तो आप बोलेंगे ...(व्यवधान)...

प्रो॰ अलका क्षत्रिय: आप लोग तो गुजरात के नाम पर कलंक हैं, कलंक। ...(व्यवधान)...

एक माननीय सदस्य: आप तो गुजरात के नाम पर ...(व्यवधान)...

उपसभाध्यक्ष (श्री कलराज मिश्र): अलका जी, आप बोलिए। ...(व्यवधान)... आपका अवसर आएगा, तो आप बोलेंगे। ...(व्यवधान)... अजय जी, आप बैठिए। ...(व्यवधान)... बैठ